Coal Mine where Blast Killed 29 to Be Sealed

VICKI SMITH,Associated Press

MORGANTOWN, W.Va. (AP) — The West Virginia coal mine where an explosion killed 29 men two years ago Thursday will be permanently sealed with concrete, the mine's new owner said.

Virginia-based Alpha Natural Resources, which acquired the mine when it bought Massey Energy last summer, said Wednesday it will seal the portals — large tunnels miners use to get underground — at the Upper Big Branch mine. Boreholes will be plugged and shafts that house the huge industrial fans meant to sweep bad air out of the mine will be capped to prevent any access. The job should be finished by summer, the company said.

"Everyone still has vivid memories of the tragedy and the suffering the miners' families endured," Chief Executive Officer Kevin Crutchfield said Wednesday. "For all of us in the mining industry, it is a solemn reminder of why we must always put safety first in everything we do."

Meanwhile, the mother and siblings of one of those killed sued former Massey Energy chief Don Blankenship on Wednesday, along with eight other individuals they hold responsible in their lawsuit for the worst U.S. coal mining disaster in four decades.

An explosion fueled by methane and coal dust ripped through the seven miles of underground corridors at the former Massey Energy mine on April 5, 2010. Starting at 3:01 p.m. Thursday, West Virginians led by Gov. Earl Ray Tomblin planned to observe a moment of silence to mark the second anniversary of the deadly blast.

Pittsburgh attorney Bruce Stanley filed the suit against the former Massey executives and mine managers in Raleigh County Circuit Court for the family of fallen miner Edward Dean Jones, just before the two-year statute of limitations expired. The complaint claims deliberate infliction of emotional distress and demands compensatory and punitive damages.

Blankenship, who has retired and virtually dropped from public view, did not immediately respond to efforts to get his comment on the lawsuit. His codefendants have moved on to other jobs.

The lawsuit does not target Massey or Alpha. Rather, it goes after individuals the Jones family says should have put their workers' lives ahead of profits. Those named include Massey's former general counsel Shane Harvey and former vice president for safety Elizabeth Chamberlin, both of whom reported directly to Blankenship.

Harvey declined comment and Chamberlin could not immediately be reached late Wednesday.

Chamberlin was among Massey employees who have invoked their right to avoid self-incrimination and refused to testify in four investigations.

"Our hope is that they will be criminally prosecuted for their unconscionable deeds," said Jones' sister, Judy Jones Peterson, "but I also believe they should be held accountable individually to each and every family member that they irreparably damaged on that fateful day when our loved one was taken from us."

"We will never be able to come to terms with this loss knowing it was completely preventable," she said in a statement. "We want them to be held responsible. We need to make sure that a message is sent to this industry that we will not tolerate such flagrant acts."

So far, only two Massey employees have faced criminal charges over the explosion.

Former superintendent Gary May, a codefendant in Wednesday's lawsuit, is the highest-ranking mine official charged so far. He has pleaded guilty to defrauding the federal government and is cooperating with prosecutors while awaiting sentencing in August.

Former security chief Hughie Elbert Stover, meanwhile, is appealing his recent conviction and a three-year sentence for lying to investigators and ordering subordinates to destroy documents.

Jones' twin brother, Gene Jones, said the lawsuit seeks to hold others accountable for their actions.

"They blew a hole in our world when they killed our family, and I've got news for them. We're not going away without a fight," he said.

The other plaintiffs are their mother, Ruby Nell Lafferty Jones, and sister Cheryl Sue Jones. Dean's widow has reached a separate settlement.

In December, Alpha reached a $210 million non-prosecution agreement with the U.S. Department of Justice that spared the corporation liability but left individuals open to prosecution. The deal guaranteed that the families of the dead miners and two co-workers who survived the explosion each receive $1.5 million.

Those who accept the payout can still pursue lawsuits, but the $1.5 million will be deducted from any settlement or jury award. At least eight families of dead miners previously settled with Massey.

The Jones family didn't learn Dean's fate until four days after the blast, when state mine safety officials informed them he had been found.

The lawsuit claims the family was led to believe he may have reached an underground safety chamber. Instead, he was actually killed instantly by powerful forces that knocked him down, then doubled back and struck him a second time.

Stanley, who represented two widows after a deadly January 2006 fire at another Massey mine, cited a memo that became the focal point of that wrongful death trial in his latest lawsuit. On Oct. 29, 2005, Blankenship issued a memo to all Massey underground mine superintendents, telling them to focus solely on production.

"If any of you have been asked by your group presidents, your supervisors, engineers or anyone else to do anything other than run coal ... you need to ignore them and run coal," it said. "This memo is only necessary because we seem not to understand that coal pays the bills."

The lawsuit says Upper Big Branch got the memo, and the message was received.

"Instead of cleaning up their act" after the deaths at the Alma No. 1 mine, "defendants redoubled their efforts at squeezing profits from safety-challenged UBB," the lawsuit says.

It says Jones briefly stopped production because of ventilation problems in the mine, and was immediately threatened with being fired, along with every miner working with him. The lawsuit also charges that one miner was fired for causing a 55-minute delay while he tried to ensure the crews had enough fresh air to prevent explosions.

Investigators said they found the mine explosion was sparked by worn cutting equipment, and clogged and broken water sprayers failed to contain what should have been a minor methane flare-up.

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